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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,614	03/08/2001	Gerald Francis McBrearty	AUS9-2000-0935-US1	5324

7590 08/26/2004

International Business Machines Corporation  
Intellectual Property Law Department  
Internal Zip 4054  
11400 Burnet Road  
Austin, TX 78758

EXAMINER
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LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/801,614		MCBREARTY ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Arrienne M. Lezak		2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/8/2001</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 7, 10, 14, 17, 21, 25 & 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,933,498 to Schneck.

3. In a data processing operation, (Col. 10, lines 14-26); communication network or world wide web communication network, (Col. 14, lines 66-67 & Col. 15, lines 1-13), having stored data in a plurality of data files, (Col. 7, lines 27-36), a system, method and computer program having code recorded on a computer readable medium for protecting said data files from unauthorized users, (Abstract & Col. 7, lines 40-45), comprising:

- means for receiving user requests for access to data files, (Col. 15, lines 19-67; Col. 16, lines 1-59; and Col. 17, lines 54-59);
- means for determining whether said requests are unauthorized intrusions into said requested data files, (Col. 15, lines 19-67; Col. 16, lines 1-59; and Col. 17, lines 54-59); and
- means responsive to a determination that a request is unauthorized for destroying the requested data files, (Col. 7, lines 44-45; Col. 8, lines 26-28; Col. 15, lines 20-67; Col. 16; and Col. 17, lines 1-59).

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Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 1, 5, 7, 10, 14, 17, 21, 25 & 27.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 6, 8, 9, 11-13, 15, 16, 18-20, 22-24, 26 & 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,933,498 to Schneck in view of US Patent US 6,351,811 B1 to Groshon.

6. Regarding Claims 2, 6, 8, 11, 15, 18, 22, 26 & 28, Schneck is relied upon for those teachings disclosed herein above relative to Claims 1, 8, 15, 16, 23, 30, 31, 38 & 45. Though Schneck teaches a storage capability for data, (Schneck - Col. 7, lines 27-36), Schneck does not specifically teach storing for each of said plurality of data files, a backup file inaccessible to user requests. Groshon discloses a system and method for controlling the transmission of data in a computer network, (Groshon - Abstract), wherein backup copies are stored, which backup copies can be encrypted to provide additional security, (Groshon - Col. 4, lines 64-67 & Col. 5, lines 1-9).

7. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to include backup copies of the data within the Schneck

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system. The motivation to combine would be an obvious preventative measure within a communication network with a storage capability wherein it is understood that data may be compromised, (Groshon – Col. 2, lines 29-34), and thus it would be obvious to have un-compromised copies available as needed.

Moreover, Groshen teaches additional security measures for the backup data wherein it would be obvious that said additional security would serve to limit access to the backup data, and wherein it would be obvious that the backup copies would not be available to a random user, especially within a system capable of tamper detection. Thus, Claims 2, 6, 8, 11, 15, 18, 22, 26 & 28 are found to be unpatentable over the combined teachings of Schneck in view of Groshon.

8. Regarding Claims 3, 9, 12, 16, 19, 23 & 29, Schneck and Schneck in view of Groshon is relied upon for those teachings disclosed herein. Though Schneck teaches a storage capability for data, (Schneck - Col. 7, lines 27-36), Schneck does not specifically teach a means for reloading a backup file for each destroyed file. As noted above, Groshon discloses a system and method for controlling the transmission of data in a computer network, (Groshon - Abstract), wherein backup copies are stored, which backup copies can be encrypted to provide additional security, (Groshon – Col. 4, lines 64-67 & Col. 5, lines 1-9). Examiner notes that within a tamper detection system that destroys data upon tamper detection, (like Schneck), It would have been obvious to reload said backup copies for purposes of recreating the destroyed file, as the ability to recreate the original data is a necessity for all other users of the system reliant

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upon the same. Thus, Claims 3, 9, 12, 16, 19, 23 & 29 are found to be unpatentable over the combined teachings of Schneck in view of Groshon.

9. Regarding Claims 4, 13, 20, 24 & 30, Schneck and Schneck in view of Groshon is relied upon for those teachings disclosed herein. Schneck further discloses a means for determining whether said user requests are unauthorized intrusions, which means include: means for determining whether a user access identification code has been denied; and means for determining whether the user has copied the requested files, (Col. 15, lines 19-57; Col. 16; and Col. 17, lines 1-59). Examiner notes that the access mechanism in Schneck specifically provides a means for preventing unauthorized access and for tamper protection and detection. A means for preventing unauthorized access would obviously include a determination of authority via a user access identification code, (as obviously necessitated by access rules, (Abstract)). Further, a means for determining whether user has copied requested files, (accessing data – Col. 17, lines 54-59), would obviously be included within a tamper detection/reset mechanism as one of many forms of determining a rule violation. Thus, Claims 4, 13, 20, 24 & 30 are found to be unpatentable over the combined teachings of Schneck in view of Groshon.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak  
Examiner  
Art Unit 2143

AML



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
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